



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/172961

PRELIMINARY RECITALS

Pursuant to a petition filed March 18, 2016, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on April 20, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined Petitioner's cost share for April 1, 2016, going forward.

NOTE: This case was consolidated with Petitioner's appeal in case FCP/172256. A separate decision has been issued in that matter.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], HSPC Sr.
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On February 28, 2016, the Petitioner completed a renewal. (Exhibit 12)
3. On March 3, 2016, the agency sent the Petitioner a notice, indicating that as of April 1, 2016, her cost share would be \$72.42 per month. (Exhibit 6)
4. The Petitioner filed an appeal that was received by the Division of Hearings and Appeals on March 18, 2016. This is the subject appeal in case FCP/172961.(Exhibit 1)
5. Petitioner's sole source of income is from Social Security Disability Income (SSDI) in the amount of \$1021 per month. (Testimony of Petitioner)
6. Petitioner pays rent in the amount of \$242.00 per month and has a utility expense of \$75.17 per month. She continues to have medical remedial expenses of \$35.58 per month. (Testimony of Petitioner; Exhibit 14)

DISCUSSION

Cost sharing is the monthly amount a waivers participant has to contribute toward the cost of his/her waiver services. *MEH*, § 28.5.1. Payment of the cost share is a condition of eligibility. *Id.*

People eligible for Family Care Medicaid fall into one of the following categories:

Group A eligibility

"Group A members are waiver functionally eligible and Medicaid eligible via SSI...or a full benefits Medicaid subprogram." In other words, Group A members meet both the functional and financial eligibility requirements for a full benefit Medicaid program.

"Group A members are financially eligible with no cost share".

Medicaid Eligibility Handbook (MEH), §28.8.2

Group B or Group B Plus (formerly group C) eligibility

Group B members are defined as those not in Group A, but who have gross income at or below the nursing home institutions categorically needy income limit (see [Section 39.4 Elderly, Blind, or Disabled Assets and Income Tables](#)).

Group B Plus members are defined as those not in Group A, who have gross income above the nursing home institutions categorically needy income limit, but whose income does not exceed the cost of the appropriate institutional care by more than the medically needy income limit (see [Section 39.4 Elderly, Blind, or Disabled Assets and Income Tables](#)).

For Group B and B Plus, calculate a cost share based on the member's income and allowable deductions. Count only the income of each individual when you calculate that individual's cost share.

Medicaid Eligibility Handbook (MEH), §28.8.3

The elderly, blind and disabled (EBD) medically needy income limit is \$591.67 and the Institutions Categorically Needy Income limit is \$2,199.00. *MEH* §39.4.1.

Petitioner's gross income is \$1021 per month. It is over the medically needy income limit for Medicaid eligibility, but less than the Institutions Categorically Needy income limit. As such, Petitioner is a Group B Family Care Participant.

The first thing we need to determine in calculating a cost share for a Group B participant is whether s/he has a special housing amount. “This is an amount of the person's income set aside to help pay housing costs.” *MEH §28.8.3.1 Personal Maintenance Allowance*

If the waiver applicant's housing costs are over \$350, add together the following costs:

- a. Rent.
- b. Home or renters insurance.
- c. Mortgage.
- d. Property tax (including special assessments).
- e. Utilities (heat, water, sewer, electricity).
- f. "Room" amount for members in a Community Based Residential Facility, Residential Care Apartment Complex (RCAC) or an [Adult](#) Family/Foster Allowance. Home. The case manager determines and provides this amount.

The total, minus \$350, equals the special housing amount. The person can set this amount aside from his/her income.

MEH §28.8.3.1 Personal Maintenance Allowance

Petitioner pays rent in the amount of \$242 and utilities in the amount of \$75.17 per month. That totals \$317.17 per month. This is less than \$350.00, so Petitioner does not have a special housing amount.

The next thing we need to calculate is the Petitioner's Personal Maintenance Allowance. The personal maintenance allowance (Line 6 and Page 2 of the Spousal Impoverishment Income Allocation Worksheet) is for room, board, and personal expenses. It is the total of:

1. Community Waivers Basic Needs Allowance (See [39.4.2 EBD Deductions and Allowances](#))
2. \$65 and ½ earned income deduction (See [15.7.5 \\$65 and ½ Earned Income Deduction](#)).
3. Special housing amount.

MEH §28.8.3.1 Personal Maintenance Allowance

The community waivers basic needs allowance is currently \$913.00 per month. *MEH §39.4* Petitioner has no earned income, so she does not get the \$65 and ½ earned income amount. As discussed above, the Petitioner's shelter expenses do not exceed \$350, so she does not have a special housing amount. So Petitioner's Personal Maintenance Allowance works out to be:

\$913.00
+ \$0 (zero) \$65 and ½ earned income deduction
+ \$0 (zero) special housing amount

\$913 Personal Maintenance Allowance

The ultimate cost share calculation for a group B or Group B+ participant is as follows:

Total Income
-Personal Maintenance Allowance
-Family Maintenance Allowance

-Special Exempt Income
 -Health Insurance Premium
 -Out of Pocket Medical Remedial Expenses

Cost Share Amount

See *Worksheet F-20919 (08/2015)*; <https://www.dhs.wisconsin.gov/forms1/f2/f20919.pdf>

Petitioner's total income is \$1021. Her Personal Maintenance Allowance is \$913.00. She has no reported Family Maintenance Allowance (i.e. child support) or Special Exempt income (i.e. court costs and fees for establishing or maintaining a guardianship). Her only health insurance premium is paid by the State of Wisconsin and her out of pocket Medical Remedial expenses are \$35.58. Accordingly, Petitioner's cost share calculation works out to be:

\$1021.00 total income
 -\$913.00 Personal Maintenance Allowance
 -\$35.58 Medical Remedial Expenses

\$72.42 Cost Share

This calculation is consistent with the budget print out in Exhibit 13.

The Petitioner indicated that her housing expenses would be increasing. If that happens, the Petitioner should report the change to the agency so that they can adjust her cost share to account for the increased expense.

CONCLUSIONS OF LAW

The agency correctly determined Petitioner's cost share for April 1, 2016, going forward.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

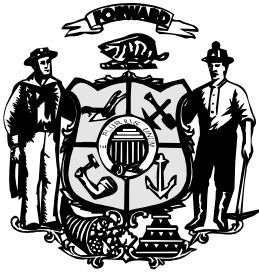
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of

Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 25th day of May, 2016

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 25, 2016.

Milwaukee Enrollment Services
Office of Family Care Expansion
Health Care Access and Accountability